

REMARKS

By this amendment, claims 1, 2, 4-6, and 8-13 are revised and claims 3 and 7 are canceled to place this application in condition for allowance. Currently, claims 1, 2, 5, 6, 8, and 10-13 are before the Examiner for consideration on their merits. Claims 4 and 9 are withdrawn as being directed to a non-elected species.

In review, the limitations of claims 3 and 7 have been incorporated into claim 1 so that these claims have been canceled. Moreover, the feature of the end stop is further defined in terms of opposing the bending of the spacer after a certain point of approach of the wings, see paragraph [0041] of Applicant's published patent application for support. Also, the remaining claims have been revised to correct the spelling of "molding" and "characterized" and correct the other minor informalities noted by the Examiner. With the changes to the claims, all objections have been addressed.

Also, a replacement Abstract is submitted herewith to address the concerns raised in the outstanding rejection.

Turning now to the prior art rejection, Applicant submits that in light of the change to claim 1, a *prima facie* case of anticipation or obviousness has not been established.

The Examiner rejected claims 3 and 7 under 35 U.S.C. § 102(b) based on United States Patent No. 4,916,767 to Uetake et al. (Uetake). The Examiner provided an annotated drawing in the rejection and has alleged that the claimed core, wings, and spacer are present, relying on the Figure 6 embodiment of Uetake. The spacer is considered to the portion C of the cover 4 that is closest to the tape 9. For the limitation of claim 3, the Examiner takes the position that portion C connects the wings B located away from the core A. For claim 7, the Examiner considered the material disposed

between portions A and C and between the openings to be the end stop.

The rejection is improper for the simple reason that an end stop for limiting the movement of the spacer 21 as is now defined in claim 1 is not present. As explained in paragraphs [0041-0046], the end stop 23 prevents the spacer from bending after a certain point of approach of the wings, which in turns controls the spacing of the wings.

Turning now to Uetake, the Examiner alleges that the portion of the cover 4 that resides between A and C and between the voids in the cover is an end stop. However, there is absolutely nothing in Uetake that describes a component of the cover intended to limit the movement of the spacer or portion C after a certain point of approach of the wings when the cover 4 is inserted into a groove.

In fact, Uetake and the invention are completely different in their function and design. The molding of Uetake comprises a central wall defined by two channels and referenced as portion D by the Examiner. This central wall connects the outer core (portion A) and the bowed part of the cover (portion C). The inner channels are only provided to allow extrusion of the molding and a similarity in the wall construction and look of the cover of Uetake to the invention is by chance only. Indeed, the specification of Uetake does not describe the cover depicted in Figure 6 thereof in a manner that could allow one to understand or derive a function to the wall between the two channels. It is neither positively disclosed that the cover has wings nor that the bowed part of the cover helps the wings approach each other when the cover is inserted into a groove. What the Examiner has done is to use the invention as a template to parse the structure of Uetake to support the rejection based on 35 U.S.C. § 102(b). This is the impermissible use of hindsight, which cannot support a sustainable rejection of claim 1, as amended.

Referring to claim 1 again, the reinforcing resources include the end-stop resources intended to limit the movement of the spacer and designed to oppose the bending of the spacer after a certain point of approach of the wings. This implicitly means that the end-stop resources do not link the core part and the bowed part of the molding as is the case with the one piece construction of parts A, C, and D of Uetake. This unlinked configuration is not found in Uetake and this reference cannot anticipate claim 1 for this reason.

The cover of Uetake does not correspond to the molding of claim 1 for the reasons given above. The cover of Uetake has a continuous wall (portion D) between what can be considered as the core part (portion A) and the bowed part (portion C). The continuous wall D of Uetake can only prevent the bowed part C of the cover from bending and therefore can only oppose a force to the approach of the wings B when the cover is inserted into a groove or slot. As a consequence, the cover of Uetake cannot work or function like the invention of claim 1 and oppose the bending of the spacer C after a certain point of approach of the wings. Therefore, Uetake cannot form the basis for a rejection based on 35 U.S.C. § 102(b).

Applicant also takes issue with interpretation that the portion D can be construed to be the resources 23 for limiting the movement of the spacer or portion C of Uetake. Portion C and D are integrally formed so how is it that portion D limits the movement of portion C? As explained above, when a force is applied to portion C, it is transmitted to the core 11 by the portion D since D and C are all one piece. There is no bending of the portion C that is opposed by a resource after a certain point of approach of the wings B and Uetake does not teach or suggest this limitation.

Applicant also submits that the Examiner's assertion that the portion B are wings in the cover of Uetake is an unreasonable interpretation of the claims and prior art. The outer periphery of the cover of Uetake that clamps around the flange 3 may be considered a "wing" but calling the portion of the cover body that is positioned between the upright side edges 3a and 3b of the flange a pair of wings makes no sense. The portions B of the Examiner's annotation are merely parts of the cover itself; not a wing. It is submitted that characterizing the body portion of the cover 4 as a wing is an unreasonable interpretation of the term "wing" in claim 1 and this is another reason why the rejection is improper and must be withdrawn.

Given the amendment to claim 1, Applicant submits that a *prima facie* case of anticipation is not established. Thus, the Examiner can only rely on 35 U.S.C. § 103(a) to further reject claim 1. However, since Uetake and the invention are completely different in structure and function, the Examiner cannot possibly have a legitimate reason to somehow modify the cover of Uetake and include the features of claim 1 as now amended. Any such allegation is another exercise in the use of hindsight to formulate the rejection. In fact, Uetake says nothing about a molding comprising end-stop resources adapted to limit, but not prevent bending of the bowed part (portion C in Uetake) that separate the two wings when the cover is inserted into a groove. Thus, there is no basis from which to formulate a rejection under 35 U.S.C. § 103(a) and claim 1 is patentable over Uetake.

Since claim 1 has been demonstrated to be patentable over Uetake, the remaining dependent claims before the Examiner for consideration are in condition for allowance.

Lastly, claim 1 is generic to the species of the spacer defined in claim 4 and the

end-stop resource of claim 9. Since claim 1 is patentable over the applied prior art, the restriction requirement should be withdrawn and claims 4 and 9 be allowed with the remaining claims.

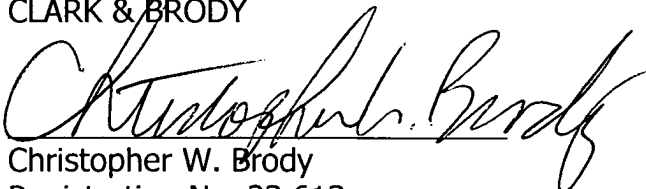
Accordingly, the Examiner is requested to examine this application in light of this response and pass all pending claims onto issuance.

If the Examiner believes that an interview would be helpful in expediting the allowance of this application, the Examiner is requested to telephone the undersigned at 202-835-1753.

The above constitutes a complete response to all issues raised in the Office Action dated October 6, 2008.

A petition for a one month extension of time is made. A check in the amount of \$65.00 is attached to cover the cost of the petition. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 50-1088.

Respectfully submitted,
CLARK & BRODY



Christopher W. Brody
Registration No. 33,613

Customer No. 22902

1090 Vermont Avenue, N.W., Suite 250
Washington DC 20005
Telephone: 202-835-1111
Facsimile: 202-835-1755
Date: February 4, 2009